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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**

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7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 vs.

10 ANTHONY MABRY,

11 Defendant.

2:08-cr-00283-RCJ-PAL-2

**ORDER**

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13 In 2008, a grand jury indicted Defendant Anthony Mabry and nine of his cohorts with  
14 engaging in a RICO enterprise of which Defendant was a leader. (See Indictment 2–9, ECF No.  
15 1). Defendant was also charged with engaging in a drug conspiracy and several counts of  
16 possession with intent to distribute. (*Id.* 13–15). Although Defendant wasn’t charged with any  
17 underlying violent crimes, the conspiracy resulted in two murders, (*see id.* 9–12). Defendant  
18 pled guilty to the RICO charge in 2010, and the Court sentenced him to 168 months of  
19 imprisonment. (See J., ECF No. 414). Defendant has asked the Court to reduce his sentence  
20 under 18 U.S.C. § 3582(c)(2) and Amendments 706, 750, and 782 (“the Amendments”) to the  
21 U.S. Sentencing Guidelines. (See Mot., ECF No. 1183).

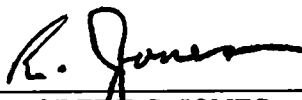
1 Defendant argues that under the Amendments, which apply retroactively and which  
2 defendants entering into plea agreements under Criminal Rule 11(c)(1)(C) may assert via § 3582,  
3 *Hughes v. United States*, 138 S. Ct. 1765, 1776 (2018), his base offense level is not 30, but 24.  
4 But even assuming Defendant is correct on the law and the math, he is not entitled to relief  
5 because he had a minimum base offense level of 32 based on his career offender status. U.S.S.G.  
6 § 4B1.1. Accordingly, that is the base offense level that was calculated by the Probation Office  
7 and applied by the Court. (Presentence Investigation Report 21 (citing *id.*); Sentencing Tr. 11–  
8 13, ECF No. 474). Because Defendant is a career offender and a violation of 18 U.S.C.  
9 § 1962(d) carries a 20-year statutory maximum, a minimum base offense level of 32 applies  
10 unless the base offense level resulting from the drug quantity alone is greater. U.S.S.G.  
11 § 4B1.1(b).

12 **CONCLUSION**

13 IT IS HEREBY ORDERED that the Motion (ECF No. 1183) is DENIED.

14 IT IS SO ORDERED.

15 Dated this ~~21~~<sup>24</sup>th day of July, 2018.

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18 ROBERT C. JONES  
19 United States District Judge  
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